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CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 204

Introduced by Assembly Member Nation
(Coauthors: Assembly Members Chan, Hancock, Leno, Lieber,
Mullin, Wolk, and Yee)
(Coauthor: Senator Torlakson)

January 28, 2003

An act to amend Section 31164 of, and to add Sections 31165, 31166, and 31167 to, the Public Resources Code, and to add Section 9250.20 to the Vehicle Code, relating to vehicles, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 204, as amended, Nation. Motor vehicles: environmental impacts: mitigation.

Existing law establishes the San Francisco Bay Area Conservancy Program, which is administered by the State Coastal Conservancy (conservancy), in order to address identified resources and recreational goals of the San Francisco Bay area in a coordinated, comprehensive, and effective way. Under that program, the conservancy is authorized to undertake projects and award grants in the 9-county San Francisco Bay area in order to achieve specified goals. Existing law establishes a

San Francisco Bay Area Conservancy Program Account in the State Coastal Conservancy Fund for the purposes of depositing and distributing funds for the administration and implementation of the program. Existing law segregates the money in the account into 2 specified subaccounts.

This bill would establish a new subaccount (the Motor Vehicle Mitigation Subaccount) within the account and authorize the conservancy to request the Department of Motor Vehicles, until January 1, 2015, to collect a fee of up to \$6 upon the registration or registration renewal of every motor vehicle registered in a participating county if 3 or more eligible counties elect to participate. The bill makes the Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma eligible for participation. The bill would require a majority vote of the county board of supervisors in order for an eligible county to participate and for the registration fee to be imposed in that county. Until January 1, 2015, the Department of Motor Vehicles would be required to collect these fees upon the request of the conservancy.

The bill would require the funds in the new subaccount to be continuously appropriated, without regard to fiscal year, to the conservancy and to the State Water Resources Control Board in specified amounts in order to fund projects and grants in participating counties that prevent, reduce, remediate, or mitigate the adverse environmental impacts of motor vehicles and motor vehicle facilities. The bill would subject authorized projects and grants to specified procedures, criteria, and priorities. The bill would require that funds be expended for projects and grants in participating counties so that, in any 2 2-year periods as prescribed, project and grant benefits are generally proportional to the revenues collected in each participating county, as specified.

The bill would require the conservancy, regional water quality control boards, and designated entities, as applicable, at least once every 2 years, to each undertake an audit of the program of projects and grants funded through the subaccount.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.



The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares the following:

(a) Motor vehicles and their related facilities and infrastructure, including, but not limited to, highways, streets, roads, and parking lots, contribute to nonpoint source pollution and environmental degradation. The adverse impacts of motor vehicles and these related facilities and infrastructure on surface waters, water-related habitat, and other natural resources and open-space lands may include, but are not limited to, the following:

(1) Increased amount of impervious surfaces resulting in higher total and peak water runoff and reduced dry season flows, affecting water temperature, groundwater supply, erosion rates, turbidity, sedimentation, and creek bank stability.

(2) Stream channelization and other physical structures, including culverts, to accommodate street and road construction that affect waterflows, erosion rates and delivery of pollutants, habitat availability, the movement of fish and wildlife, and public access to natural areas.

(3) Pollutants and fine particulates generated by automobiles that enter the environment through the air, affecting the health of fish, wildlife, and people.

(4) Increased potential for the conversion of agricultural, watershed, and habitat lands to other uses.

(b) The State Water Resources Control Board has identified the waters of the San Francisco Bay area as having impairments for beneficial uses due to a combination of point and nonpoint source pollution and habitat degradation, and has placed these waters on the Section 303(d) list pursuant to the federal Clean Water Action Plan of 1998.

(c) The federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.), in conjunction with the Porter-Cologne Water Quality Control Act (Div. 7 (commencing with Section 13000), Wat. C.) and other statutes and regulations, mandates improved water quality in the San Francisco Bay area, and requires a comprehensive approach that addresses both point and nonpoint source water pollution and associated habitat degradation.

(d) Chapter 4.5 (commencing with Section 31160) of Division 21 of the Public Resources Code establishes the San Francisco Bay Area Conservancy Program and assigns to the State Coastal Conservancy responsibility for the implementation of a comprehensive program of projects and grants throughout the nine-county San Francisco Bay area that includes, but is not limited to, restoration, enhancement, and protection of wetlands, streams, riparian areas, and watersheds.

(e) Existing statutory programs and regulations do not provide sufficient methods to ameliorate the impacts of motor vehicles and existing related facilities and infrastructure on water quality, habitat, and open space.

(f) New methods of ameliorating the impacts of motor vehicles and related facilities and infrastructure on the bay, other waters, water-related habitat, and other open space are needed for the nine-county San Francisco Bay area.

(g) Efforts to address the impacts described in this section are most effective when public agencies work together and in partnership with community-based organizations and interests.

(h) Cities, counties, and special districts are currently expending considerable efforts to address the environmental impacts described in this section, but existing funding is insufficient to fully comply with state and federal mandates.

(i) A fee of up to six dollars (\$6) upon the registration or registration renewal of every motor vehicle registered in counties that choose to participate in the program described in Section 31165 of the Public Resources Code is fair and reasonable in relation to the adverse environmental burdens imposed by motor vehicles and their related facilities, given that the cost of remedying these environmental burdens is significantly greater than the amount of revenues that would be raised by that fee, and because substantial nonmotor vehicle-related fee and tax revenues, state bond funds, penalties, and private donations are being expended for the purposes described in Section 31165 of the Public Resources Code.

(j) The use of the fee imposed upon the registration or registration renewal of every motor vehicle registered in eligible participating counties would not result in the imposition of a tax within the meaning of Article XIII A of the California Constitution because the amount and nature of that fee has a fair

1 and reasonable relationship to the adverse environmental burdens
2 imposed by motor vehicles and their related facilities and
3 infrastructure, and there is a sufficient nexus between the
4 imposition of those fees and the use of those fees to support the
5 prevention, reduction, remediation, and mitigation of the adverse
6 water quality and environmental impacts caused by motor
7 vehicles.

8 SEC. 2. Section 31164 of the Public Resources Code is
9 amended to read:

10 31164. (a) The San Francisco Bay Area Conservancy
11 Program Account is hereby created in the State Coastal
12 Conservancy Fund, for the purpose of depositing and disbursing
13 funds for the administration and implementation of the San
14 Francisco Bay Area Conservancy Program.

15 (b) (1) The money in the account created pursuant to
16 subdivision (a) shall be segregated into three subaccounts, as
17 follows:

18 (A) The first subaccount shall contain funds that are
19 appropriated by the Legislature for the purposes of this chapter.
20 Any interest that accrues on the funds in this subaccount shall be
21 transferred to, and deposited into, the General Fund. The
22 conservancy shall account for all deposits or reimbursements of
23 funds in this subaccount that are derived from funds that were
24 appropriated by the Legislature for the purposes of this chapter.

25 (B) The second subaccount is the Motor Vehicle Mitigation
26 Subaccount and shall contain funds derived from fees collected by
27 the Department of Motor Vehicles pursuant to Section 9250.20 of
28 the Vehicle Code. Notwithstanding Section 13340 of the
29 Government Code, 90 percent of the funds in this subaccount shall
30 be continuously appropriated, without regard to fiscal year, to the
31 conservancy, and 10 percent of the funds in this subaccount shall
32 be continuously appropriated, without regard to fiscal year, to the
33 State Water Resources Control Board. Those funds may only be
34 expended for the purposes specified in Sections 31165 and 31167.
35 Of the funds appropriated to the conservancy, the conservancy
36 shall annually transfer 40 percent of the balance generated by each
37 participating county that has adopted a resolution pursuant to
38 paragraph (2) of subdivision (a) of Section 31165 to the public
39 entity designated by that participating county as its program
40 manager.

1 (C) The third subaccount shall contain funds that are derived
2 from all other sources, exclusive of federal funds, for the purposes
3 of this chapter, including, but not limited to, private donations, fees
4 and penalties, and local government contributions. Any interest
5 that accrues on the funds in this subaccount shall be retained in the
6 subaccount and shall be available for expenditure by the
7 conservancy for the purposes of this chapter. Not more than 3
8 percent of the funds that are deposited in this subaccount shall be
9 utilized by the conservancy for general administration and
10 planning purposes. Funds may not be expended from this
11 subaccount for any activity that would legally require a
12 commitment of state funds in the future. Notwithstanding Section
13 13340 of the Government Code, the funds in this subaccount are
14 continuously appropriated, without regard to fiscal year, to the
15 conservancy for expenditures for the purposes of this chapter.

16 (2) All reimbursements, proceeds of sale, or other money
17 received by the conservancy for the purposes of this chapter that
18 are not expended on projects under the San Francisco Bay Area
19 Conservancy Program shall be redeposited in the appropriate
20 subaccount of the account.

21 (c) The conservancy is not required to undertake any activities
22 pursuant to this chapter until the time that funds from new sources
23 of funding that are not currently available to the conservancy for
24 those purposes are appropriated by the Legislature or otherwise
25 deposited in the account, and until the time that any administrative
26 or general planning funds expended by the conservancy for the
27 purposes of this chapter prior to any appropriations or deposits
28 being available for expenditure by the conservancy are reimbursed
29 to the State Coastal Conservancy Fund.

30 SEC. 3. Section 31165 is added to the Public Resources Code,
31 to read:

32 31165. (a) (1) Until January 1, 2015, the conservancy may
33 request that the Department of Motor Vehicles collect a fee of up
34 to six dollars (\$6) upon the registration or renewal of registration
35 of every motor vehicle registered in all eligible counties that elect
36 to participate. Pursuant to Section 9250.20 of the Vehicle Code, the
37 department may begin collection only after three or more eligible
38 counties elect to participate. Eligible ~~Counties~~ *counties* include
39 Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo,
40 Santa Clara, Solano, and Sonoma. The registration fee shall be

computed in the manner specified by Section 9559 of the Vehicle Code. A county may elect to participate only by a majority vote of the membership of its board of supervisors. If the amount of fees collected by the department in the previous fiscal year exceeds the reasonable cost of fulfilling the purposes of this section as determined by the conservancy, the conservancy shall request a reduced fee level to be collected by the department in the current fiscal year.

(2) Each participating county may designate a public entity as the program manager for that county by resolutions adopted by the county board of supervisors and the city councils of a majority of the cities representing a majority of the population in the incorporated area of that county. The county's resolution shall specify the terms and conditions for the expenditure of funds. That resolution shall reflect that the funds may be used only to fund projects or ~~programs~~ *a grant program* that prevent, reduce, remediate, or mitigate the adverse environmental impacts of motor vehicles and motor vehicle facilities, consistent with the purposes and provisions of this chapter. The entity designated as program manager may expend the funds directly or may develop and implement a grant program consistent with the terms and conditions of the county resolution and this chapter.

(b) (1) All funds appropriated to the conservancy from the Motor Vehicle Mitigation Subaccount may only be used by the conservancy for the purpose of administering and funding projects and grants to nonprofit organizations and public agencies that prevent, reduce, remediate, or mitigate the adverse environmental impacts of motor vehicles and motor vehicle facilities, or by participating counties for those programs. The requirements of Section 31166 apply to all funds expended pursuant to this paragraph.

(2) Up to 5 percent of the funds appropriated to the conservancy from the Motor Vehicle Mitigation Subaccount may be used to reimburse the conservancy for the costs incurred by the conservancy under this section and Section 31167.

(c) (1) All funds appropriated to the State Water Resources Control Board from the Motor Vehicle Mitigation Subaccount shall be allocated to the regional water quality control boards having jurisdiction in the nine-county San Francisco Bay area described in subdivision (a) of this section. Those boards together

1 may expend the funds directly or may develop and implement a
2 grant program, only to prevent, reduce, remediate, or mitigate the
3 adverse environmental impacts of motor vehicles and motor
4 vehicle facilities on water quality, water-related habitat, and
5 watersheds within the nine-county San Francisco Bay area. In
6 developing the grant program or directly doing projects as
7 authorized by this subdivision, those regional water quality
8 control boards may use local watershed management plans as
9 defined by subdivision (c) of Section 79078 of the Water Code, or
10 other equivalent local, state, or federally supported watershed
11 protection programs. The requirements of Section 31166 apply to
12 all funds expended pursuant to this paragraph.

13 (2) Up to 5 percent of the funds appropriated to the State Water
14 Resources Control Board from the Motor Vehicle Mitigation
15 Subaccount may be used to reimburse the regional boards for costs
16 incurred by the regional boards under this section and Section
17 31167.

18 (d) (1) Projects and grants funded from the Motor Vehicle
19 Mitigation Subaccount shall be consistent with the adopted plans
20 of the applicable regional water quality control board, applicable
21 watershed management initiatives, or other adopted plans that
22 identify goals, objectives, and implementation strategies for
23 achieving the goals of and compliance with this chapter and related
24 statutes, including, but not limited to, Chapter 6 (commencing
25 with Section 1600) of Division 2 of the Fish and Game Code,
26 Article 4 (commencing with Section 13160) of Chapter 3 of,
27 Article 3 (commencing with Section 13240) of Chapter 4 of, and
28 Chapter 5.6 (commencing with Section 13390) of, Division 7 of
29 the Water Code, and Division 2 (commencing with Section 2001)
30 of this code.

31 (2) Funds from the Motor Vehicle Mitigation Subaccount may
32 not be used to fund any part of a project or activity required to
33 satisfy a condition imposed by a permit, license, certificate, or
34 other entitlement, other than a permit, license, certificate, or
35 entitlement required for a project funded, in whole or in part, from
36 funds in the subaccount, issued by one or more public agencies,
37 including, but not limited to, the mitigation of significant effects
38 on the environment of a project pursuant to an approved
39 environmental impact report or mitigated negative declaration
40 required pursuant to the California Environmental Quality Act



(Division 13 (commencing with Section 21000)). However, funds from the subaccount may be used to support public projects or activities that are included in the implementation measures of a county's Municipal Storm Water National Pollutant Discharge Elimination System Permit issued by a regional water quality control board.

(3) Priority shall be given to those projects and grants that most effectively accomplish the purposes of this section through the long-term protection and restoration of natural resources impacted by motor vehicles and motor vehicle facilities.

(4) Eligible expenditures are limited to projects and activities that prevent, reduce, remediate, or mitigate the adverse water quality and environmental impacts of motor vehicles and motor vehicle facilities.

(5) To the extent feasible, in carrying out the purposes of this section, the services of the California Conservation Corps and Community Conservation Corps, as defined in Section 14507.5, and of any nonprofit organization that the administering entity determines has the relevant and demonstrated capacity and expertise, shall be utilized.

(6) In determining priorities, and in designing and carrying out ~~these projects~~ *projects and grant programs*, the conservancy and entities designated as program managers under paragraph (2) of subdivision (a) shall consult ~~with the appropriate Regional Water Quality Control Board and~~ *with the appropriate regional water quality control board* and with local governments, affected special districts and agencies, and nonprofit organizations. Before making funds available for a grant or project pursuant to this section, the conservancy, regional board, or local program manager, as appropriate, shall make findings that the expenditure of funds is consistent with the requirements of this section.

SEC. 4. Section 31166 is added to the Public Resources Code, to read:

31166. Funds in the Motor Vehicle Mitigation Subaccount shall be expended for projects within those counties that elect to participate pursuant to Section 31165. In counties that do not elect to participate pursuant to Section 31165, funds in the Motor Vehicle Mitigation Subaccount may not be expended. Funds shall be distributed to entities designated under paragraph (2) of subdivision (a) of Section 31165 for projects and grants in

1 participating counties in a manner that, over any two two-year
2 periods prescribed by Section 31167, project and grant benefits are
3 proportional to the revenues collected in each participating county
4 pursuant to Section 9250.20 of the Vehicle Code for vehicles
5 registered in that county. The funds transferred to participating
6 counties under subparagraph (B) of paragraph (1) of subdivision
7 (b) of Section 31164 shall be counted toward the proportional
8 benefit.

9 SEC. 5. Section 31167 is added to the Public Resources Code,
10 to read:

11 31167. The conservancy, the regional water quality control
12 boards, and any entity designated under paragraph (2) of
13 subdivision (a) of Section 31165, as applicable, shall, at least once
14 every two years, each undertake an audit of the program of projects
15 and grants funded, in whole or in part, through the Motor Vehicle
16 Mitigation Subaccount. The audit shall, at a minimum, evaluate
17 the degree to which resources adversely impacted by motor
18 vehicles and motor vehicle-related facilities and infrastructure
19 have been protected, restored, or rehabilitated, the level of
20 matching funds obtained, and the distribution of funds and
21 projected benefits by county. The audit shall be made available to
22 the Legislature, participating counties, other interested agencies,
23 and the public upon request.

24 SEC. 6. Section 9250.20 is added to the Vehicle Code, to read:

25 9250.20. (a) The department shall, if requested by the State
26 Coastal Conservancy pursuant to subdivision (a) of Section 31165
27 of the Public Resources Code, collect a fee of up to six dollars (\$6),
28 upon the registration or renewal of registration of any motor
29 vehicle registered in the ~~Counties~~ County of Alameda, Contra
30 Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara,
31 Solano, or Sonoma, except those vehicles that are expressly
32 exempted under this code from the payment of registration fees.
33 The department shall begin collecting the fee in each county on
34 January 1 of the fiscal year immediately following the date the
35 department receives the request to do so from the State Coastal
36 Conservancy. The fee shall be included by the department in any
37 fee statement or notice as part of its designation of county/district
38 fees.

39 (b) After deducting necessary and reasonable costs incurred by
40 the department pursuant to this section, the department shall remit

1 the balance of the revenues received pursuant to this section to the
2 Treasurer who shall deposit those revenues in the Motor Vehicle
3 Mitigation Subaccount established pursuant to subparagraph (B)
4 of paragraph (1) of subdivision (b) of Section 31164 of the Public
5 Resources Code. The department shall, upon remittance, notify
6 the Treasurer, the State Water Resources Control Board, the State
7 Coastal Conservancy, and any entity designated under paragraph
8 (2) of subdivision (a) of Section 31165 of the total amount remitted
9 from each participating county.

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